संख्या- 10 /1654/26-3-2013

प्रेषक,

सुनील कुमार,
प्रमुख सचिव,
उत्तर प्रदेश शासन।

सेवा में,

समस्त जिलाधिकारी,
उत्तर प्रदेश।

समाज कल्याण अनुभाग-3 लखनऊ दिनांक 24 अक्टूबर, 2013

विषय- आल इण्डिया धनगर समाज महासभा बनाम उ0प्र0 राज्य व अन्य, रिट याचिका संख्या 40462/2009 में पारित मा0 उच्च न्यायालय के आदेश दिनांक 14-03-2012 के अनुपालन में राष्ट्रीय अनुसूचित जाति आयोग द्वारा दिये गये निर्णय दिनांक 16.01.2013 के अनुपालन के संबंध में।

महोदय,

उपर्युक्त विषय के संबंध में मुझे यह कहने का निदेश हुआ है कि भारत के संविधान के अनुच्छेद-341 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए राष्ट्रपति द्वारा जारी किये गये अनुसूचित जातियां और अनुसूचित जनजातियां आदेश (संशोधन) अधिनियम, 1976 द्वारा उत्तर प्रदेश के अन्तर्गत अधिसूचित की गयी अनुसूचित जातियों की सूची के क्रमांक-27 पर धंगड़ (DHANGAR) जाति वर्गीक़त है। सामाजिक न्याय और अधिकारिता मंत्रालय, भारत सरकार ने अपने पत्र संख्या 12025/3/2008-एस0सी0डी0(आर.एल.सैल) दिनांक 07-04-2008 द्वारा यह स्पष्ट किया है कि धंगड़(न कि धनगर) जाति संविधान

http://shasanadesh.up.nic.in

(अनुसूचित जातियां) आदेश, 1950 (यथासंशोधित) के अन्तर्गत अधिसूचित है। शासनादेश संख्या 4789/26-3-2009-3(21)/2006 दिनांक 17-07-2009 द्वारा उत्तर प्रदेश की अनुसूचित जातियों की सूची में सम्मिलित DHANGAR जाति के व्यक्तियों को अनुसूचित जाति का जाति प्रमाण पत्र निर्गत किये जाने के निर्देश समस्त मण्डलायुक्त/जिलाधिकारी, उ0प्र0 को दिये गये हैं, जिसमें यह भी उल्लेख है कि जाति प्रमाण पत्र जारी करने वाले अधिकारी यह भी सुनिश्चित करें कि प्रमाण पत्रों में उचित वर्तनी लिखी जाय अर्थात कि अंग्रेजी में Dhangar एवं हिन्दी में धंगड़।

2- कालान्तर में DHANGAR जाति को अनुसूचित जाति के प्रमाण पत्र प्रदान किये जाने के संबंध में मा0 उच्च न्यायालय इलाहाबाद में सिविल मिस रिट याचिका संख्या 40462/2009 आल इण्डिया धनगर समाज महासंघ उ0प्र0 व अन्य बनाम उ0प्र0 राज्य व अन्य योजित हुई, जिसमें मा0 न्यायालय द्वारा पारित आदेश दिनांक 14.03.2012 का मुख्य अंश निम्नवत है :-

6. In our opinion the appropriate authority to decide this issue, namely, the interpretation of the presidential Order of 1950, would be the National Commission for Scheduled Castes and Scheduled Tribes established under Article 338 of the Constitution. We may have considered referring the matter to the State Commission for Scheduled Caste and Scheduled Tribes as constituted by the Karnataka State Commission for Scheduled Castes and Scheduled Tribes Act, 2002, had the State Government shown any predisposition to determine the issue as directed by this Court's order in the earlier writ proceedings.

7. We accordingly direct the National Commission to look into the matter and to submit a report before this Court after

http://shasanadesh.up.nic.in

hearing all affected parties within a period of six months from the date of service of copy of this order. The parties are at liberty to place such material before the National Commission in addition to and over and above the material already referred to, as they may think fit, in order to enable the National Commission to determine the issue correctly.

The above issue is a serious issue affecting the rights of the member of the scheduled caste and there is no sufficient material on the record to give any authoritative pronouncement by this Court. Ends of justice by served in referring the matter to the National Commission for Scheduled Caste and Scheduled tribes to consider the issues as noted above and determine the controversy looking into the relevant materials including the materials which were available at the time of issuance of the 1950 Order. The National Commission may also send a copy of its report to the State Government as well as Union of India for taking consequential actions. We direct the respondents No.2 and 5 to submit a reference along with the relevant materials along with this order before the national commission for the Scheduled Caste and Scheduled Tribes to consider the issue. The petitioners may also submit relevant materials in support of their claim before the National Commission for Scheduled Caste and Scheduled Tribes for determination of issues. Looking to the fact that dispute has been continuing for several years, the National Commission for Scheduled Castes and Scheduled Tribes shall Endeavour to decide the controversy at an early date preferably within a period of six months from the date of receiving the

http://shasanadesh.up.nic.in

reference from respondent No.2 or 5 along with a certified copy of this order.

The writ petition is disposed of accordingly.

4- मा0 उच्च न्यायालय के उपरोक्त आदेश के अनुपालन में शासन के पत्र संख्या 92 भा0स0/26-3-2012 दिनांक 15-05-2012 द्वारा अपेक्षित अभिलेखों सहित प्रकरण राष्ट्रीय अनुसूचित जाति एवं अनुसूचित जनजाति आयोग, नई दिल्ली को संदर्भित करते हुए वस्तुस्थिति से सामाजिक न्याय और अधिकारिता मंत्रालय को अवगत कराया गया।

5- मा0 उच्च न्यायालय के उक्त आदेश दिनांक 14-03-2012 के अनुपालन में राष्ट्रीय अनुसूचित जाति आयोग द्वारा संदर्भगत प्रकरण के परिप्रेक्ष्य में निर्णय लेते हुए आयोग के पत्र संख्या-6/Inclusion&Exclusion/2012/SSW-I दिनांक 16-01-2013 द्वारा आदेश पारित किये गये, जो निम्नवत है :-

Earlier the Hon'ble High Court of UP has passed order in the writ petition no. 40462/2009 of All India Dhangar Mahasabha Vs. Govt. of UP and others that NCSC may decide the controversy over the Hindi version of Dhangar caste of UP.

The Commission asked the State Office, Lucknow to conduct an-on-the spot enquiry and submit a report to the Commission on 17.10.2012.

The State Office, Lucknow conduct an enquiry into the matter. As per report, the State Office visited the areas of Mathura and Agra districts of UP wherein the Members of the

http://shasanadesh.up.nic.in

Dhangar Community are mostly resided. During the enquiry, the evidence of 132 persons of Dhangar Community were collected. The evidence shows that the members of Dhangar Community are residing in that area since independence of the country. They have ration card, revenue records, land, electoral registration and other relevant documents mentioning name of the Dhangar Community. During the investigation, it is revealed that only Dhangar Community exist in the areas of UP districts of Agra, Mathura and other districts and the practice of untouchability also exists in Dhangar community. No community in the name of Dhangad existed in the districts of UP.

In support of existence of Dhangar community, the State Office found that during the Census from 1961 to 2001, the Registrar General of India, MHA had given Census figures of Dhangar community. The Gazette Notification dated 26.11.2007 issued by the Government of India and Secretary, Welfare of India, letter dated 6.5.1998 also clarified that **/kuxj** (Dhangar) community is notified SC community in the list of SC of UP at the S.No. 27 of notification.

The Government of UP vide its Order no. 0744/26-77-17(21) 74 dated 29.8.1977 has issued order that **/kuxj** (Dhangar) is listed at serial no.27 in SC list of UP which was also further clarified vide letter dated 15.9.2001. Moreover the Chief Secretary, Govt. of UP dated 21.10.2008 issued instructions to all the Collectors of UP that the Caste certificate in the name of **/kuxj** (Dhangar) may be issued to the members of that community. Thus it is observed that only **/kuxj** (Dhanger) in UP

http://shasanadesh.up.nic.in

inhabited and no community in the name of Dhangad is in existence.

Hence, this is neither a case of deletion or addition to the list. This is rather a matter of clarification resulting into replacement of an entry(with no inhabitants) by clarifying another entry (which is in practice). Accordingly, it is decided that SC certificates can be given only to Dhangar(**/kuxj**) and not to Dhangad(**/kxM@/kuxM@/kxj**).

6- राष्ट्रीय अनुसूचित जाति आयोग द्वारा प्रश्नगत प्रकरण में पारित किया गया उपरोक्त निर्णय का अनुपालन सुनिश्चित किया जाय।

भवदीय

(सुनील कुमार)

प्रमुख सचिव

http://shasanadesh.up.nic.in